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Before the  
Federal Communications Commission  
Washington, D.C. 20554

FCC Docket No. 04-144

MAY 12 8 31 04  
FCC 04M-18

In re Applications of	)	
	)	MB Docket No. <del>04-144</del> 03297
<b>PISCATAWAY BOARD OF EDUCATION</b>	)	
	)	
For Renewal of License	)	Facility ID No 52686
For Noncommercial Educational	)	File No BRED-19980427WA
Station WVPH(FM), Piscataway, New Jersey	)	
	)	
and	)	
	)	
<b>KING'S TEMPLE MINISTRIES, INC.</b>	)	
	)	
For a Construction Permit	)	Facility ID No. 91347
For a New Noncommercial Educational	)	File No BPED-19980805MB
FM Station, Plainfield, New Jersey	)	

ORDER

Issued: May 11, 2004

;

Released: May 13, 2004

This proceeding involves the application of Piscataway Board of Education ("Piscataway") for renewal of license for noncommercial educational station WVPH(FM) on Channel 212 in Piscataway, New Jersey, and the mutually exclusive application of King's Temple Ministries ("King's Temple") for authority to construct a new noncommercial educational FM station on Channel 212 in Plainfield, New Jersey, on a time sharing basis with WVPH(FM). By *Hearing Designation Order*, DA 04-957, released April 9, 2004 ("*HDO* "), the Chief, Audio Division, Media Bureau, acting pursuant to delegated authority, designated this case for hearing on the following issue

To establish the terms and conditions of a time sharing arrangement, including the hours of the day throughout the year during which each licensee is to operate, and to set forth such terms and conditions in a written document. Such arrangement shall not include simultaneous operation of the stations.

*HDO* at para 6. The underlying premise of the *HDO*, as well as the specification of the above issue, was that Piscataway did not operate its station at least 12 hours per day each day of the year. Under those circumstances, the *HDO* stated, noncommercial educational new station applicants such as King's Temple could propose to share time in response to renewal applications from noncommercial educational licensees like Piscataway *Id.* at para. 2.

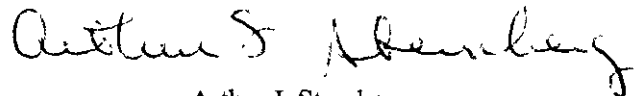
On May 6, 2004, Piscataway filed with the Chief, Audio Division, Media Bureau, a Petition for Reconsideration of the *HDO*. Piscataway contends that the *HDO* was based on incorrect facts. Specifically, Piscataway argues that it has been operating its station 24 hours each day, almost every day, since 1999. Piscataway therefore alleges that established Commission policy requires its license to be renewed without the imposition of an involuntary time sharing arrangement. Petition at 2, 8-12. Moreover, Piscataway maintains that the King's Temple application must be dismissed

with prejudice. In support, Piscataway avers that the ownership structure of King's Temple has materially changed since its application was submitted, thereby constituting a "major change" under Section 73.3573 of the Commission's Rules, and that such facts require the assignment of a new file number to the King's Temple application. *Id.* at 2-8.

Given the above, it appears that the *HDO* may have been based upon an inaccurate assumption relating to the hours of operation of Piscataway's station. Therefore, the possibility exists that the *HDO* was issued in error.<sup>1</sup> In order to allow the Chief, Audio Division, Media Bureau, to consider this matter, the hearing in this proceeding will be stayed pending action on Piscataway's Petition.

Accordingly, on the Presiding Judge's own motion, IT IS ORDERED that the hearing in this proceeding IS STAYED pending action on the Petition for Reconsideration filed by Piscataway Board of Education on May 6, 2004.

FEDERAL COMMUNICATIONS COMMISSION



Arthur I. Steinberg  
Administrative Law Judge

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<sup>1</sup> Cf. *Muncie Broadcasting Corp.*, 89 FCC 2d 123, 125-26 (Rev. Bd. 1982) (an issue designated through mistake of fact may properly be deleted), *Post-Newsweek Stations, Florida, Inc.*, 52 FCC 2d 883, 885 (Rev. Bd. 1975) (compelling circumstances warranting the deletion of an issue exist where the Commission, prior to designation, has overlooked or misconstrued pertinent information); *Southern Broadcasting Co.*, 40 FCC 2d 1109, 1113-14 (1973) (issue deleted where clear error was made as to the underlying facts), *New Era Broadcasting Co., Inc.*, 22 FCC 2d 172, 177-78 (Rev. Bd. 1970) (where new factual information is submitted which clearly eliminates the need for resolution of an issue through the hearing process, an issue may be deleted), *Lorain Community Broadcasting Co.*, 5 FCC 2d 808, 809 (Rev. Bd. 1966) (an issue may be deleted where the body designating the matter for hearing made some obvious error).